

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



Shemariah Lee Owens,

Petitioner,

v.

18-cv-280 (JLS) (HBS)

Captain Coveny,

Respondent.

DECISION AND ORDER

On February 22, 2018, *pro se* petitioner Shemariah Lee Owens filed this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. Dkt. 1. On July 19, 2018, Respondent answered the petition and also filed a memorandum in opposition to the petition. Dkts. 20-21. Owens replied. Dkt. 22. On October 17, 2019, this Court¹ referred this case to United States Magistrate Judge Hugh B. Scott for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Dkt. 27.

On October 6, 2020, Judge Scott issued a Report and Recommendation (“R&R”), recommending that Owens’s request for habeas corpus be denied and that the petition be dismissed. Dkt. 29. Owens filed an untimely objection to the R&R on November 2, 2020 (Dkts. 30, 31), in which he reasserts his previous allegations and challenges the constitutionality of New York’s first-degree sexual abuse statute.

¹ Judge Vilardo was originally assigned to this case and made the referral to Magistrate Judge Scott. On January 5, 2020, this case was reassigned to Judge John L. Sinatra, Jr. Dkt. 28.

See Dkt. 30, at 2; *see also* Dkt. 32, at 2. Respondent responded to the objections on November 10, 2020. Dkt. 32. Owens replied on November 16, 2020. Dkt. 33.

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which objection is made. *Id.*

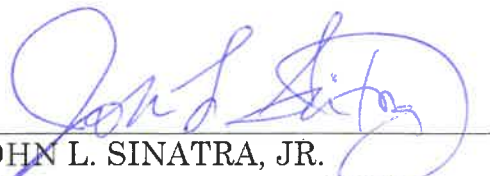
Notwithstanding any untimeliness, this Court has carefully reviewed the R&R, the relevant record, the objection and response, and the materials submitted by the parties. Based on that *de novo* review, the Court accepts and adopts Judge Scott's recommendation to deny Owens's request for habeas corpus and dismiss the petition.

CONCLUSION

For the reasons stated above and in the R&R, Owens's request for habeas relief is DENIED and the petition (Dkt. 1) is DISMISSED. The Clerk of Court is instructed to close this case. The Clerk of Court shall also mail a copy of this Decision and Order to Owens.

SO ORDERED.

Dated: December 15, 2020
Buffalo, New York


JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE